REMARKS

Claims 1-50 are currently pending in the subject application and are presently under consideration. Favorable consideration of the subject patent application is respectfully requested in view of the comments herein.

I.   Rejection of Claim 1 under 35 U.S.C. §102(e)

Claim 1 stands rejected under 35 U.S.C. §102(e) as being anticipated by Sievert *et al.* (US 6,687,729). Withdrawal of this rejection is respectfully requested for at least the following reasons. Sievert *et al.* fails to teach or suggest each and every limitation set forth in independent claim 1.

> A single prior art reference anticipates a patent claim only if it *expressly or inherently describes each and every limitation set forth in the patent claim.* Trintec Industries, Inc. v. Top-U.S.A. Corp., 295 F.3d 1292, 63 USPQ2d 1597 (Fed. Cir. 2002); *See Verdegaal Bros. v. Union Oil Co. of California,* 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The *identical invention must be shown in as complete detail as is contained in the ... claim.* Richardson v. Suzuki Motor Co., 868 F.2d 1226, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989) (emphasis added).

Independent claim 1 recites a client side HTTP stack software component for processing requests that comprises at least one completion port, a thread pool comprising a plurality of threads adapted to process tasks associated with at least one client side request, and a client side state machine associated with the at least one request. It is apparent that the invention as claimed provides a client side HTTP stack for processing requests, wherein the client side stack includes one or more completion port, a thread pool comprising a plurality of threads, each thread contained in the thread pool associated with at least one client side request, and a client side state machine associated with the at least one client side request. Sievert *et al.* does not teach or suggest these novel features of the claimed invention.

Sievert *et al.* discloses a system and method for managing a pool of threads for executing thread operations, and in particular, managing a pool of threads for executing queued items of work. (*See* Abstract, and col. 1, lines 16-17). The Final Office Action

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dated October 19, 2004, indicates that the substance of independent claim 1 can be found at col. 3, lines 20-32 and col. 3, lines 34-64. In particular, the Final Office Action asserts that the limitation: *a thread pool comprising a plurality of threads adapted to process tasks associated with at least one client side request*, can be found at col. 3, lines 20-32. Applicant's representative avers to the contrary. Col. 3, lines 20-32 discloses a work queue, a thread pool, a work queue controller, and a thread pool manager, wherein the work queue supports a method for managing individual items of work in the work queue which may be executed by any of the threads in the thread pool. The cited document however, is silent with respect to the fact that the plurality of threads that comprises the thread pool are adapted to process tasks associated with at least one client side request. Moreover, it should noted that Sievert *et al.* is directed towards the management of a pool of threads, rather than a client side HTTP stack component that utilizes a thread pool to process client side requests.

In addition, the Final Office Action contends that Sievert *et al.*, at col. 3, lines 34-65, provides *a client side state machine associated with the at least one request.* Applicant's representative respectfully disagrees. Sievert *et al.* at the noted passage provides, a single work queue that can be in one of three states: stopped, suspended and running, rather than a client side state machine associated with at least one client side request. Implicit in the language of the subject claim is the fact that, since the thread pool comprises a plurality of threads, and the plurality of threads is adapted to process tasks associated with at least one client side request, that each client side request must therefore be associated with its own client side state machine. Thus, whereas Sievert *et al.* provides a single work queue that can comprise one of three states to effectuate work to be performed by the multiplicity of threads, the invention as claimed on the other hand provides a client side state machine for each client side request that utilizes a thread within the thread pool.

In view of at least the foregoing, it is submitted that the invention as claimed and the cited document are clearly distinguishable, and that the rejection of independent claim 1 (and claims that depend there from) should be withdrawn.

II.   Rejection of Claims 8, 23, 35 and 46 Under 35 U.S.C. §102(b)

Claims 8, 23, 35 and 46 stand rejected under 35 U.S.C. §102(b) as being anticipated by IBM Technical Disclosure Bulletin ("Control of Dynamic Threads Pool for Concurrent Remote Procedure Calls"). Reversal of this rejection is respectfully requested for at least the following reasons. The IBM Technical Disclosure Bulletin does not teach or suggest all limitations set forth in the subject claims.

Independent claims 8, 23, 35 and 46 recite similar limitations, namely: a software component for implementing a client side HTTP stack, comprising, a thread pool comprising N threads adapted to process M requests from a client application component, wherein N and M are integers greater than 1 and wherein M is greater than N. It is apparent that the claimed invention utilizes a thread pool created on a client that comprises a multiplicity of threads wherein each thread is utilized by a client application component. The number of threads that comprises the thread pool is set such that the number of threads created in the thread pool is greater than the anticipated number of requests received from the client application component. The IBM Technical Disclosure Bulletin fails to teach or suggest these exemplary aspects of the invention as claimed.

The IBM Technical Disclosure Bulletin discloses an algorithm for controlling and destroying executor threads on an application server, wherein the algorithm creates only a fraction of the threads requested by the application server at initialization time and varies the number of threads when the load on the server changes. It is apparent that the method provided by the IBM Technical Disclosure Bulletin is explicitly confined to an application server, such that threads are created in a thread pool on an application server. This is in contrast to applicant's claimed invention, wherein the thread pool is created on the client rather than on the server. Further, the IBM Technical Document Bulletin discloses that the threads are related to Remote Procedure Calls that are received by the application server from clients accessing the functionality of the application server.

In addition, the Examiner is reminded that the standard by which anticipation is to be measured is *strict identity* between the cited document and the invention as claimed, not mere equivalence or similarity. *See, Richardson* at 9 USPQ2d 1913, 1920. This means that in order to establish anticipation under 35 U.S.C. §102, the single document cited must not only expressly or inherently describe each and every limitation set forth in

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the patent claim, but also the identical invention must be shown in as complete detail as is contained in the claim. The fact that the Examiner in the Response to Arguments section of the instant Final Office Action states "there is no reason to believe that the thread pool could not be implemented on the client side" is an explicit concession that the IBM Technical Document Bulletin not only fails to expressly or inherently describe each and every limitation set forth in the subject claims, but also that the cited document, in the final analysis, does not provide an invention identical to that recited in the subject claims.

In view of at least the foregoing, it is respectfully submitted that the rejection of independent claims 8, 23, 35 and 46, and associated dependent claims, should be reversed.

III.   Rejection of Claim 2 Under 35 U.S.C. §103(a)

Claim 2 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Sievert *et al.* in view of Jones *et al.* (US 6,003,061). This rejection should be withdrawn for at least the following reasons. Claim 2 depends from independent claim 1, and for at least the reasons noted *supra*, Jones *et al.* fails to rectify the deficiencies inherent in Sievert *et al.* Accordingly, withdrawal of this rejection is respectfully requested.

IV.   Rejection of Claim 3 Under 35 U.S.C. §103(a)

Claim 3 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Sievert *et al.* in view of Okano *et al.* (US 6,725,253). Withdrawal of this rejection is requested for at least the following reasons. Claim 3 depends from independent claim 1, and Okano *et al.* fails to makeup the aforementioned deficiencies of Sievert *et al.* regarding claim 1. Accordingly, this rejection should be withdrawn.

V.   Rejection of Claim 4 Under 35 U.S.C. §103(a)

Claim 4 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Sievert *et al.* in view of Paxhia *et al.* (US 6,493,749). This rejection should be withdrawn for at least the following reason. Claim 4 depends from independent claim 1; and Paxhia *et al.* fails to rectify the above-noted deficiencies of Sievert *et al.* Withdrawal of this rejection is respectfully requested.

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VI.   Rejection of Claim 5 Under 35 U.S.C. §103(a)

Claim 5 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Sievert *et al.* in view of Paxhia *et al.* as applied to claim 4 above, and further in view of Jones *et al.* Withdrawal of this rejection is respectfully requested in view of the fact that claim 5 depends from independent claim 1, and Paxhia *et al.* and Jones *et al.* fail to makeup for the aforementioned deficiencies presented in Sievert *et al.*

VII.   Rejection of Claim 6 Under 35 U.S.C. §103(a)

Claim 6 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Sievert *et al.* in view of Paxhia *et al.* in view of Jones *et al.* as applied to claim 5 above, and further in view of Okano *et al.* Claim 6 depends from independent claim 1, and Paxhia *et al.*, Jones *et al.* and Okano *et al.*, alone or in combination, fail to makeup the aforementioned deficiencies presented by Sievert *et al.* Withdrawal of this rejection is respectfully requested.

VIII.   Rejection of Claim 7 Under 35 U.S.C. §103(a)

Claim 7 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Sievert *et al.* in view of Paxhia *et al.* as applied to claim 4 above, and further in view of Okano *et al.* Reversal of this rejection is respectfully requested for at least the following reasons. Claim 7 depends from independent claim 1, and Paxhia *et al.* and Okano *et al.* fail to cure the aforementioned deficiencies presented by Sievert *et al.* This rejection should be withdrawn.

IX.   Rejection of Claims 9-13, 17-19, 24-28, 32-34, 36-39 and 47 Under 35 U.S.C. §103(a)

Claims 9-13, 17-19, 24-28, 32-34, 36-39 and 47 stand rejected under 35 U.S.C. §103(a) as being unpatentable over the IBM Technical Disclosure Bulletin in view of Sievert *et al.*. This rejection should be reversed for at least the following reasons. Claims 9-13, 17-19, 24-28, 32-34, 36-39 and 47 respectively depend from independent claims 8, 23, 35 and 46, and Sievert *et al.* does not makeup for the aforementioned

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deficiencies of the IBM Technical Disclosure Bulletin. Accordingly, withdrawal of this rejection is respectfully requested.

X.   Rejection of Claims 14, 29, 40 and 48 Under 35 U.S.C. §103(a)

Claims 14, 29, 40 and 48 stand rejected under 35 U.S.C. §103(a) as being unpatentable over the IBM Technical Disclosure Bulletin in view of Sievert *et al.* as applied to claims 13, 28, 39 and 47 above respectively, and further in view of Jones *et al.* Withdrawal of this rejection is respectfully requested for at least the following reasons. Claims 14, 29, 40 and 48 depend from independent claims 8, 23, 35 and 46 respectively, and Sievert *et al.* and Jones *et al.* do not makeup for the aforementioned deficiencies of the IBM Technical Disclosure Bulletin. Thus, it is respectfully submitted that this rejection should be withdrawn.

XI.   Rejection of Claims 15, 30 and 41 Under 35 U.S.C. §103(a)

Claims 15, 30 and 42 stand rejected under 35 U.S.C. §103(a) as being unpatentable over the IBM Technical Disclosure Bulletin in view of Sievert *et al.* in view of Jones *et al.* as applied to claims 14, 29 and 40 above respectively, and further in view of Okano *et al.* Claim 15, 30 and 41 depend from independent claims 8, 23 and 35 respectively, and the combination of Sievert *et al.*, Jones *et al.* and Okano *et al.* fails to rectify the deficiencies presented in the IBM Technical Disclosure Bulletin. Accordingly, this rejection should be withdrawn.

XII. Rejection of Claims 16, 31 and 42-45 Under 35 U.S.C. §103(a)

Claims 16, 31 and 42-45 stand rejected under 35 U.S.C. §103(a) as being unpatentable over IBM Technical Disclosure Bulletin in view of Sievert *et al.* in view of Jones *et al.* and Okano *et al.* as applied to claims 15, 30 and 41 above respectively, and further in view of Paxhia *et al.* Reversal of this rejection is respectfully requested for at least the following reasons. Claims 16, 31 and 42-45 depend from independent claims 8, 23 and 35, and Sievert *et al.*, Jones *et al.* and Okano *et al.* fail to makeup for the deficiencies presented by the IBM Technical Disclosure Bulletin. Accordingly, this rejection should be reversed.

XIII. Rejection of Claim 20 Under 35 U.S.C. §103(a)

Claim 20 stands rejected under 35 U.S.C. §103(a) as being unpatentable over the IBM Technical Disclosure Bulletin in view of Jones *et al.* Withdrawal of this rejection is respectfully requested for at least the following reasons. Claim 20 depends from independent claim 8, and Jones *et al.* does not makeup for the deficiencies identified above in the IBM Technical Disclosure Bulletin. Accordingly, withdrawal of this rejection is respectfully requested.

XIV. Rejection of Claim 21 Under 35 U.S.C. §103(a)

Claim 21 stands rejected under 35 U.S.C. §103(a) as being unpatentable over IBM Technical Disclosure Bulletin in view of Okano *et al.* Claim 21 depends from independent claim 8, and Okano *et al.* fails to rectify the deficiencies presented in the IBM Technical Disclosure Bulletin. Thus, it is submitted that this rejection should be withdrawn.

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XV.   Rejection of Claim 22 Under 35 U.S.C. §103(a)

Claim 22 stands rejected under 35 U.S.C. §103(a) as being unpatentable over the IBM Technical Disclosure Bulletin in view of Paxhia *et al.* This rejection should be withdrawn for at least the following reasons. Claim 22 depends from independent claim 8, and Paxhia *et al.* fails to makeup for the aforementioned deficiencies in the IBM Technical Disclosure Bulletin. Accordingly, reversal of this rejection is respectfully requested.

XVI.   Rejection of Claim 49 Under 35 U.S.C. §103(a)

Claim 49 stands rejected under 35 U.S.C. §103(a) as being unpatentable over the IBM Technical Disclosure Bulletin in view of Sievert *et al.* as applied to claim 47 above, and further in view of Okano *et al.* Reversal of this rejection is respectfully requested for at least the following reasons. Claim 49 depends from independent claim 46, and the combination of Sievert *et al.* and Okano *et al.* fail to rectify the aforementioned deficiencies presented in the IBM Technical Disclosure Bulletin.

XVII.   Rejection of Claim 50 Under 35 U.S.C. §103(a)

Claim 50 stands rejected under 35 U.S.C. §103(a) as being unpatentable over the IBM Technical Disclosure Bulletin in view of Sievert *et al.* as applied to claim 47 above, and further in view of Paxhia *et al.* This rejection should be withdrawn for at least the following reasons. Claim 50 depends from independent claim 46, and the combination of Sievert *et al.* and Paxhia *et al.* fails to makeup for the aforementioned deficiencies in the IBM Technical Disclosure Bulletin. Thus, it is submitted that this rejection should be reversed.

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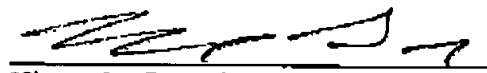
CONCLUSION

The present application is believed to be in condition for allowance in view of the above comments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063.

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicant's undersigned representative at the telephone number below.

Respectfully submitted,

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